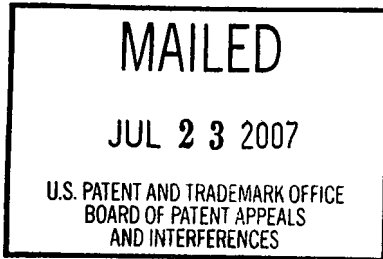


UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte DAVID T. POLLOCK

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Application 09/546,966

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was returned to the Board of Patent Appeals and Interferences (BPAI) on July 14, 2007 from a previous Order Returning Undocked Appeal mailed October 12, 2006. The order instructed the Examiner to respond to Appellant's communication filed September 21, 2006. The Examiner's response mailed March 15, 2007, is improper and non-compliant as identified below:

37 CFR § 41.43 states in part:

(a)(1) After receipt of a reply brief in compliance with § 41.41, the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or **may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.**

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Every supplemental examiner's answer must be approved by a Technology (TC) Director or designee. . . .


In addition to stating that the Reply Brief has been entered and considered, the Examiner attached a Supplemental Examiner's Answer responding to the Reply Brief. As noted above, every Supplemental Examiner's Answer responding to a Reply Brief must be approved by persons authorized to grant such approval. Currently, such authorization is limited to the Technology Center Director or the Director's designee. This response does not contain such authorization. Correction is required.

Accordingly, it is

ORDERED that the application is being returned to the Examiner to vacate the improper Response mailed March 15, 2007 and to resubmit an action (Reply Brief Noted) acknowledging receipt and consideration of the Reply Brief:

- a) with proper approval to include a Supplemental Examiner's Answer in the action, if the examiner wishes to do so, or
- b) a proper Reply Brief Noted; and,
- c) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:   
PATRICK J. NOLAN  
Deputy Chief Appeals Administrator  
(571) 272-9797

Application 09/546,966

PJN/vsh

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